

thorization for the employee to initially select a physician in accordance with such regulations and instructions considered necessary by the Secretary.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-416 applicable to cases where injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Section 7 of Pub. L. 90-83 provided that: "Nothing in this or any other Act makes the increases authorized by section 1(49)—(52) [amending this section and sections 8107, 8108, and 8109 of this title], 53(B) and (C) [amending section 8110 of this title], (54)—(58) [amending section 8111, 8112, 8116, 8122, and 8124 of this title], (60) [amending section 8131 of this title], (61) [amending section 8132 of this title], (62) (B) [amending section 8133(e) of this title], (63) [amending section 8135 of this title], (67) [adding section 8146a of this title], (68) [amending section 8147 of this title], and (71) [amending section 8149 of this title] of this Act applicable to—

"(1) an employee or individual not within the definition of 'employee' in section 8101(1)(A), (B), or (D) of title 5, United States Code;

"(2) a member of the Metropolitan Police or the Fire Department of the District of Columbia who is pensioned or pensionable under sections 521—535 of title 4, District of Columbia Code; or

"(3) a member of a uniformed service."

§ 8104. Vocational rehabilitation

(a) The Secretary of Labor may direct a permanently disabled individual whose disability is compensable under this subchapter to undergo vocational rehabilitation. The Secretary shall provide for furnishing the vocational rehabilitation services. In providing for these services, the Secretary, insofar as practicable, shall use the services or facilities of State agencies and corresponding agencies which cooperate with the Secretary of Health, Education, and Welfare in carrying out the purposes of chapter 4 of title 29, except to the extent that the Secretary of Labor provides for furnishing these services under section 8103 of this title. The cost of providing these services to individuals undergoing vocational rehabilitation under this section shall be paid from the Employees' Compensation Fund. However, in reimbursing a State or corresponding agency under an arrangement pursuant to this section the cost to the agency reimbursable in full under section 32(b)(1) of title 29 is excluded.

(b) Notwithstanding section 8106, individuals directed to undergo vocational rehabilitation by the Secretary shall, while undergoing such rehabilitation, receive compensation at the rate provided in sections 8105 and 8110 of this title, less the amount of any earnings received from remunerative employment, other than employment undertaken pursuant to such rehabilitation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 535; Pub. L. 93-416, § 3, Sept. 7, 1974, 88 Stat. 1144.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 759(b).	Oct. 14, 1949, ch. 691, § 202(a), 63 Stat. 862.

In the third sentence, the words "the Secretary of Health, Education, and Welfare" are substituted for

"him", referring to the Administrator, on authority of section 1 (proviso) of 1950 Reorg. Plan No. 19, 64 Stat. 1271, and section 5 of 1953 Reorg. Plan No. 1, 67 Stat. 632.

The words "State agencies or corresponding agencies" are substituted for "State agencies (or corresponding agencies in Territories or possessions)" as the agencies available for cooperation are set out in the Vocational Rehabilitation Act (chapter 4 of title 29).

The words "section 32(b)(1) of title 29" are substituted for "section 33(a) (4) of title 29" on authority of the Act of Aug. 3, 1954, ch. 655, § 2, 68 Stat. 652. Reference is limited to section 32(b)(1) since section 32(b) (2), (3) is obsolete.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Chapter 4 of title 29, referred to in subsec. (a), refers to the Vocational Rehabilitation Act, act June 2, 1920, ch. 219, 41 Stat. 735, as amended. Section 32(b)(1) of title 29, also referred to in subsec. (a) (enacted Sept. 6, 1966), did not reflect amendment of section 32(b) by Pub. L. 89-333 § 2(a), Nov. 8, 1965, 79 Stat. 1282, which eliminated obsolete pars. (2) and (3) and redesignated par. (1) provisions as subsec. (b) and amended such subsection. Section 32(b) of title 29, refers to section 2(b) of act June 2, 1920, as amended. Such provisions were repealed by former section 500(a) of Pub. L. 93-112, title V, Sept. 26, 1973, 87 Stat. 390, and pursuant to former section 500(a) of Pub. L. 93-112, which also provided that references to the Vocational Rehabilitation Act in other provisions of law were to be deemed a reference to the Rehabilitation Act of 1973, and were covered by sections 701 et seq. and 731(a), respectively, of Title 29, Labor.

AMENDMENTS

1974—Pub. L. 93-416 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-416 applicable to cases where injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to Rehabilitation Act of 1973) of Secretary and Department of Health, Education, and Welfare to Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 8105. Total disability

(a) If the disability is total, the United States shall pay the employee during the disability monthly monetary compensation equal to 66⅔ percent of his monthly pay, which is known as his basic compensation for total disability.

(b) The loss of use of both hands, both arms, both feet, or both legs, or the loss of sight of both eyes, is prima facie permanent total disability.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 535.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 753.	Sept. 7, 1916, ch. 458, § 3, 39 Stat. 743. Oct. 14, 1949, ch. 691, § 102, 63 Stat. 855.

In subsection (a), the words “Except as otherwise provided in sections 751–756, 757–781, 783–791, and 793 of this title” are omitted as surplusage.

In subsection (b), the words “Loss, or” are omitted as included in “loss of use of”. The words “or the loss of sight of both eyes” are substituted for “or both eyes or the sight thereof”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8106. Partial disability

(a) If the disability is partial, the United States shall pay the employee during the disability monthly monetary compensation equal to 66⅔ percent of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of the partial disability, which is known as his basic compensation for partial disability.

(b) The Secretary of Labor may require a partially disabled employee to report his earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies. The employee shall include in the affidavit or report the value of housing, board, lodging, and other advantages which are part of his earnings in employment or self-employment and which can be estimated in money. An employee who—

- (1) fails to make an affidavit or report when required; or
- (2) knowingly omit or understates any part of his earnings;

forfeits his right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129 of this title, unless recovery is waived under that section.

(c) A partially disabled employee who—

- (1) refuses to seek suitable work; or
- (2) refuses or neglects to work after suitable work is offered to, procured by, or secured for him;

is not entitled to compensation.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 536.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 754.	Sept. 7, 1916, ch. 458, §4, 39 Stat. 743. Oct. 14, 1949, ch. 691, §103(a), 63 Stat. 855.

In subsection (a), the words “Except as otherwise provided in sections 751–756, 757–781, 783–791, and 793 of this title” are omitted as surplusage.

In subsection (b), the word “remuneration” is omitted as covered by the word “earnings”.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8107. Compensation schedule

(a) If there is permanent disability involving the loss, or loss of use, of a member or function

of the body or involving disfigurement, the employee is entitled to basic compensation for the disability, as provided by the schedule in subsection (c) of this section, at the rate of 66⅔ percent of his monthly pay. The basic compensation is—

(1) payable regardless of whether the cause of the disability originates in a part of the body other than that member;

(2) payable regardless of whether the disability also involves another impairment of the body; and

(3) in addition to compensation for temporary total or temporary partial disability.

(b) With respect to any period after payments under subsection (a) of this section have ended, an employee is entitled to compensation as provided by—

(1) section 8105 of this title if the disability is total; or

(2) section 8106 of this title if the disability is partial.

(c) The compensation schedule is as follows:

- (1) Arm lost, 312 weeks' compensation.
- (2) Leg lost, 288 weeks' compensation.
- (3) Hand lost, 244 weeks' compensation.
- (4) Foot lost, 205 weeks' compensation.
- (5) Eye lost, 160 weeks' compensation.
- (6) Thumb lost, 75 weeks' compensation.
- (7) First finger lost, 46 weeks' compensation.
- (8) Great toe lost, 38 weeks' compensation.
- (9) Second finger lost, 30 weeks' compensation.
- (10) Third finger lost, 25 weeks' compensation.
- (11) Toe other than great toe lost, 16 weeks' compensation.
- (12) Fourth finger lost, 15 weeks' compensation.
- (13) Loss of hearing—
 - (A) complete loss of hearing of one ear, 52 weeks' compensation; or
 - (B) complete loss of hearing of both ears, 200 weeks' compensation.

(14) Compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is the same as for loss of the eye.

(15) Compensation for loss of more than one phalanx of a digit is the same as for loss of the entire digit. Compensation for loss of the first phalanx is one-half of the compensation for loss of the entire digit.

(16) If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation is the same as for loss of the arm or leg, respectively.

(17) Compensation for loss of use of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, is proportioned to the loss of use of the hand or foot occasioned thereby.

(18) Compensation for permanent total loss of use of a member is the same as for loss of the member.

(19) Compensation for permanent partial loss of use of a member may be for proportionate loss of use of the member. The degree of loss of vision or hearing under this schedule is determined without regard to correction.